

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF RHODE ISLAND

JONATHAN N. SAVAGE, SOLELY IN :
HIS CAPACITY AS RECEIVER FOR :
NESTOR, INC. AND NESTOR TRAFFIC :
SYSTEMS, INC. :
Plaintiff :

CA No.: 13-488 S

vs. :

CITY OF EAST CLEVELAND :
Defendant. :

AFFIDAVIT IN SUPPORT OF MOTION ENTRY OF DEFAULT JUDGMENT

The undersigned, being duly sworn, upon oath deposes and says:

1. That I am the attorney of record for the Plaintiff and I have personal knowledge of the facts set forth in this affidavit;

2. That on or about June 28, 2013, the Plaintiff filed in this action a Complaint against the Defendant;

3. That on or about July 16, 2013, the Plaintiff filed in this action an Amended Complaint against the Defendant;

4. That examination of the Court's records in this action shows that on or about September 20, 2013, the Defendant was duly served with a copy of the Summons and a copy of the Plaintiff's Amended Complaint;

5. On or about November 5, 2013, Plaintiff filed a Motion for Entry of Default based on Defendant's failure to plead or otherwise respond to the Complaint;

6. On or about November 22, 2013, Defendant requested a waiver by the Court of Defendant's requirement to obtain local counsel in connection with this proceeding;

7. On or about December 2, 2013, the Court advised Defendant that the local counsel requirement cannot be waived, and gave Defendant 30 days, until January 2, 2014 to obtain local counsel. On or about January 2, 2014, Defendant requested an additional week to obtain local counsel, and the Court gave Defendant until January 10, 2014 to obtain local counsel;

8. Defendant failed to obtain local counsel and respond to the Motion for Entry of Default. On or about January 22, 2014, default entered against Defendant;

9. Subsequently, I have made several attempts to reach out to Defendant to discuss a resolution of this matter, but have not received any response;

10. That eight months have elapsed since service of the Summons and Amended Complaint;

11. That the Defendant has failed to plead or otherwise defend as to the Plaintiff's Amended Complaint;

12. Based on my review of Nestor, Inc. and Nestor Traffic Systems, Inc. (collectively, "Nestor") accounts receivable records, during or about the period of time between October 2007 and July 2009, Nestor provided services to East Cleveland as indicated on the Accounts Receivable Invoice Report by invoice numbers 0101723IN, 0101755IN, 0101776IN and 0102509IN. A copy of the Accounts Receivable Invoice Report is attached hereto as Exhibit A and incorporated herein by reference;


13. East Cleveland has failed to pay the \$638,093.10 it owes to the Receivership Estate per the Accounts Receivable Report, despite Plaintiff's numerous written demands;

14. Notice of the Motion for Entry of Default was given to Defendant by both regular mail, postage prepaid, and by certified mail, return receipt requested;

15. To the best of Plaintiff's knowledge, the address set forth in the attached Certificate of Service is the last known address of Defendant;

16. The Defendant is not in the military service of the United States as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended; and

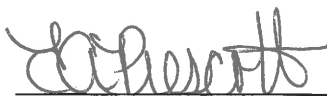
17. That this affidavit is executed by affiant herein in accordance with Rule 55(b) of the Federal Rules of Civil Procedure and Rule 55 of the Local Rules of Civil Procedure for the purpose of enabling the Plaintiff to obtain an Entry of Default Judgment against the Defendant for failure to plead or otherwise defend as to the Plaintiff's Complaint.



James G. Atchison, Esq. (#7682)
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Date: July 3, 2014

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

On July 3, 2014, James G. Atchison personally appeared before me and known to me to be the person executing the foregoing swore under oath that to the best of his knowledge and belief the foregoing was true and accurate.



Elizabeth A. Prescott
Notary Public Elizabeth A Prescott
My Commission Expires: 9/20/16

**ELIZABETH A. PRESCOTT
NOTARY PUBLIC
STATE OF RHODE ISLAND
MY COMMISSION EXPIRES SEPT. 20, 2016**